CAMBRIDGE INTERNATIONAL EXAMINATIONS

GCE Advanced Subsidiary Level and GCE Advanced Level

MARK SCHEME for the May/June 2014 series

9084 LAW

9084/22 Paper 2, maximum raw mark 50

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

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This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

1 Sykes asks Twist and Unwin to go with him at night to break in to a house owned by Lord Green. Sykes and Unwin break into the house and take some valuable jewellery. Twist stays outside as a lookout, armed with a cricket bat. Lord Green is awoken by the noise and comes down the stairs. Unwin produces an imitation gun from his coat pocket and threatens Lord Green with it. Twist sees a police car approach and shouts for Sykes and Unwin to leave. Sykes, Twist and Unwin are arrested by the police and taken to the police station for questioning.

(a) Consider what offence if any, Sykes has committed under the Theft Act 1968;

Band 1: Irrelevant answer [0]

A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – reference to fact that he has entered the house and this may constitute burglary: … **and/or**
- Reference to s.9 Theft Act 1968 with little or no development [1–5]

Band 4: Some development of all the correct sections s.9(1)(a), s.9(1)(b) and s.9(2) with some application. Alternatively credit the use of less than all three sections if accompanied by full and valid reasoning. [6–7]

Band 5: Candidate must refer to and provide full development of both subsections. Clear conclusion that Sykes is guilty of burglary. [8–10]

(b) Consider what offence if any, Twist has committed under the Theft Act 1968;

Band 1: Irrelevant answer [0]

A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – reference to fact that Twist had not entered the house but may have committed burglary: … **and/or**
- Reference to s.9 and/or s.10 Theft Act 1968 and/or R v Wiggins with little or no development. [1–5]

Band 4: Some development of all or some of s.9 and s.10 Theft Act 1968 and R v Wiggins with some application. Credit application that s.9 and s.10 do not apply to Twist with reasoning based on the Theft Act 1968. [6–7]

Band 5: Candidate must refer to and provide full development of the correct subsections, s.10(1)(b). Good reference and discussion of R v Wiggins. Clear conclusion that Twist is not guilty of aggravated burglary but may be guilty of burglary. [8–10]

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(c) Consider what offence if any, Unwin has committed under the Theft Act 1968;

Band 1: Irrelevant answer [0]

A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:

- Principle without section – reference to the fact that Unwin has entered the property and has threatened the owner constitutes burglary:… **and/or**
- Reference to ss.9,10 Theft Act with little or no development [1–5]

Band 4: Some development of both or either of s.9(1)(a) and s.9(1)(b) and some discussion of what constitutes aggravated burglary referring to s10(1). Good application of law to the facts. Mention of the significance of an imitation firearm. [6–7]

Band 5: Candidate must refer to and provide full development of all subsections, including s.10(1)(a). Clear conclusion that Unwin can be charged with aggravated burglary. [8–10]

(d) What protection is given to suspects when arrested by the police and taken to the police station for questioning. Discuss whether these measures provide adequate protection for those arrested by the police.

Band 1: Irrelevant answer [0]

Band 2: Discusses PACE in very general terms [1–6]

Band 3: Good discussion of one aspect of PACE such as arrest and rights available to a suspect **or** limited discussion of several aspects under PACE such as arrest, search on arrest, questioning at the station and the protection, particularly that given under the Codes to a defendant. Some critical analysis would be anticipated. [7–13]

Band 4/5: Very good discussion of all aspects of protection given to a defendant on arrest although some may be in more detail than others. A good analytical discussion of whether the defendant is afforded proper protection by PACE and other legislation. [14–20]

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2 Clarence and Amjad are looking for a flat to rent in London. They see an advertisement for a flat in Bethnal Green and go to view it. They like the flat and the landlord Mrs Gamgee agrees to let it to them for two years at a rent of £800 per month. The agreement is not put into writing and Clarence and Amjad are surprised but Mrs Gamgee says she likes to keep things simple. Clarence and Amjad move in immediately.

Mrs Gamgee tells them that as part of the agreement she would clean the flat on Mondays and Thursdays but she expected them to leave the flat for an hour in order for her to do so. After three months it is clear that the flat has never been cleaned; Clarence and Amjad have complained about this. They have now been asked to move out within the week and Mrs Gamgee has threatened to force them out if they refuse. Clarence and Amjad now seek your advice.

(a) Consider whether the agreement between Clarence and Amjad and Mrs Gamgee is valid. [10]

Band 1: Irrelevant answer [0]

A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – **/or**
- Reference to s.54(1) and/ or s.54(2) LPA 1925 with little or no development [1–5]

Band 4: Some development of both the correct sections – s.54(1) and s.54(2) LPA 1925 with some application to the scenario. Discussion of the fact that the agreement is an oral agreement but can still take effect as a valid lease as it is under three years and the parties have moved in immediately. [6–7]

Band 5: Candidate must refer to and provide full development of both the subsections. Discussion of the fact that the agreement is an oral agreement but can still take effect as a valid lease as it is under three years and the parties have moved in immediately. Credit for any discussion of whether the rent comes within the description 'best rent'. Clear conclusion that there is a valid agreement. [8–10]

(b) Consider how the provision of cleaning will affect the agreement and what difference will it make if Mrs Gamgee does not actually clean the flat. [10]

Band 1: Irrelevant answer [0]

A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – general reference to the fact that the cleaning may affect the arrangement, as may the fact that the cleaning never happens:… **and/or**
- Reference to Street v Mountford (1985), Aslan v Murphy (1990) and Markou v Silvaesa (1986) with little or no development. [1–5]

Band 4: Some development of the cases and discussion of whether there is a lease or a licence. [6–7]

Band 5: Candidate must refer to and provide full development of the correct sections and cases. Clear conclusion that there is a lease despite the requirement to leave for an hour and this is reinforced by the fact that the cleaning never takes place. [8–10]

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(c) Advise Clarence and Amjad whether they have to move out of the property this week. [10]

Band 1: Irrelevant answer [0]

A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – any notice needs to be in writing and be given not less than 4 weeks before the date on which it is due to take effect:…**and/or**
- Reference to s.5 Prevention of Eviction Act 1977 with little or no development [1–5]

Band 4: Some development of s.5(1) (a) and (b) PEA 1977 and general discussion of the need for Mrs Gangee to notify the parties in writing in accordance with s.5 PEA 1977. [6–7]

Band 5: Candidate must refer to and provide full development of both subsections. Clear conclusion that Clarence and Ajmad do not have to move out unless Mrs Gamgee writes to them with a date at least 4 weeks from that on which they are given the notice to quit and merely telling them that they have to move out will not take effect as a notice to quit. [8–10]

(d) Describe the process for bringing civil cases to the courts. Critically assess the effectiveness of the process. [20]

Band 1: Irrelevant answer [0]

Band 2: Discusses in general terms an action in the civil courts with little or no reference to the reforms and the difference between the various courts. [1–6]

Band 3: Good discussion of civil procedure in the civil courts, including the Woolf reforms. Some limited discussion of the changes introduced by the reforms and why they needed to be introduced and whether they are effective. [7–13]

Band 4/5: Very good discussion of civil procedure including the various levels of courts, funding, appeals and the difficulties of bringing complex cases to court alongside a good discussion of the effectiveness of the reforms under Woolf. [14–20]

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